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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/659,132 | 09/11/2003 | William E. Launius JR. | WEL003 | 3056 |
| 27789 | 7590 | 11/24/2004 | EXAMINER | |
| CHARLES C. MCCLOSKEY | | | REIS, TRAVIS M | |
| 763 S. NEW BALLAS ROAD STE. 170 | | | ART UNIT | |
| ST. LOUIS, MO 63141 | | | PAPER NUMBER | |
| | | | 2859 | |

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,132

Applicant(s)

LAUNIUS, WILLIAM E.

Examiner

Travis M Reis

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) 4,6,11,14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-10,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

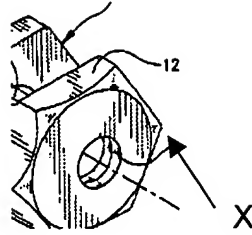
Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, & 5 are rejected under 35 U.S.C. 103(a) as being anticipated by MacIntosh (U.S. Patent 5733077) in view of the prior art detailed in pages 2 & 3 in the specification (hereafter Prior Art).

McIntosh discloses a hole alignment gauge, preferably be made of a metal (col. 4 line 32), guiding a drill bit into holes comprising a body (12c, shown best in the cross section of Figure 8) having a generally rectangular shape (Figure 5), two mutually parallel ends parallel to the lateral axis of said body, and two mutually parallel sides parallel to the longitudinal axis of said body, a pair of projections (12a, 12b) having generally rectangular shape extending coplanar with each of said ends perpendicular to the longitudinal axis of said body, each projection having a length being less than half that of said body (where length is considered the horizontal direction in Figure 8), said projections form a U shape and a means (14) to align; and a passage bounded by said projections having a generally rectangular shape whereby a drill bit enters said aligning means (Figure 8) and reams a hole (28) in an object (20) (Figure 9); said projections including said aligning means having two holes (14c, 18) matching and generally centered (Figure 4) in each of said projections and parallel to the longitudinal axis of said body, and said holes are located away from the center of said body (12c) (Figure 5); said projections further including have markings (X, see below)



located upon said projections at opposite sides of said body, parallel to the longitudinal axis of said body and to said aligning means (Figure 5), said markings are visible to position said object with said aligning means (Figure 7); said guide allowing accurate drilling to be achieved without damaging the object (Abstract).

MacIntosh does not disclose the hole alignment gauge is for model cars guiding a drill bit into axle holes, whereby a model car fits snugly within said passage, a drill bit enters said aligning means in each projection and said model car, and said drill bit reams an axle hole in said model car.

The Prior Art discloses a hole alignment gauge (i.e. by hand or clamp, and eye) for model cars (pg 3 lines 31-33) guiding a drill bit into axle holes (pg 3 lines 33-34) whereby a model car fits snugly in said clamp, a drill bit enters said model car, and said drill bit reams an axle hole in said model car (pg 3, lines 33-34). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to size and shape said guide disclosed by McIntosh to fit and work on the model cars disclosed by the Prior Art since accurate drilling of the axle holes can be achieved without damaging the model car.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacIntosh & the Prior Art as applied to claims 1, 2, & 5 above, and further in view of Klapperich (U.S. Patent 5407306).

MacIntosh & the Prior Art do not disclose said markings comprise grooves located upon said projections and away from said body.

Klapperich discloses a jig for boring dowel holes in true alignment with each other

Art Unit: 2859

using guide slots/grooves (11) that correspond to drill holes (9) located on the projection (12) to form a common guide in conjunction with guide strips (12,13) away from the body (2) to be drilled (Figure 2). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add an appropriately sized guide slot/groove disclosed by Klapperich to the marking on the projections disclosed by McIntosh and the Prior Art in order to see more of the workpiece alignment, improving the accuracy.

4. Claims 7-9 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntosh & the Prior Art as applied to claims 1, 2, & 5 above, and further in view of Linblad (U.S. Patent 4421442).

McIntosh & the Prior Art disclose all of the instant claimed invention as stated above in the rejection of claims 1, 2, & 5, but do not disclose threaded rods with wingnuts and heads, said threaded rods passing through holes in said jaws parallel to the longitudinal axis of said gauge.

Linblad discloses a doweling jig comprising two jaws (16, 20) each of said jaws connecting by means of threaded rods (40, 54) with wingnuts (48, 56) and heads, wherein in a broad sense, the ends of the threaded rods are heads, said threaded rods pass through holes (42) in said jaws parallel to the longitudinal axis of said gauge, in order to be expandable accommodate workpieces (64, 66) of various sizes (col. 2 lines13-18).

Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to split the body disclosed by McIntosh & the Prior Art as taught by Linblad and add the holes and threaded rods with wingnuts and heads disclosed by Linblad to the guide disclosed by McIntosh & the Prior Art in order to expandable accommodate model cars of various sizes.

5. Claims 10 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacIntosh, the Prior Art, & Linblad as applied to claims 7-9 & 12 above, and further in view of

Art Unit: 2859

Klapperich (U.S. Patent 5407306).

MacIntosh, the Prior Art, & Linblad do not disclose said markings comprise grooves located upon said projections and opposite said sides of said jaw.

Klapperich discloses a jig for boring dowel holes in true alignment with each other using guide slots/grooves (11) that correspond to drill holes (9) located on the projection (12) opposite the side of jaw (6) to form a common guide in conjunction with guide strips (12,13). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add an appropriately sized guide slot disclosed by Klapperich to the marking on the projections disclosed by McIntosh and the Prior Art in order to see more of the workpiece alignment, improving the accuracy.

Response to Arguments

6. With reference to claims 1, 2, & 4 in response to applicant's arguments that MacIntosh disclose a screw while applicant's invention does not claim a screw; these arguments have been fully considered but they are not persuasive since the MacIntosh reference meets the limitations of applicant's invention, as disclosed above in paragraph 2, & while the cited prior art may have additional features not disclosed by Applicant, these features do not prevent the reference from meeting the limitations of applicant's invention as claimed. Furthermore, in response to applicant's argument that the references (i.e. MacIntosh) fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a fixed width between projection to match the specified width of car bodies in sanctioned derby races; a rectangular tool with two projections and a groove upon each projection where both grooves align across the tool) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. With reference to claim 3, in response to applicant's arguments that Klapperich

Art Unit: 2859

teaches a line of parallel holes while applicant's claims one; these arguments have been fully considered but they are not persuasive since the Klapperich reference is only used to teach grooves located upon said projections and away from said body, as disclosed above in paragraph 3, & while the cited prior art may have additional features not disclosed by Applicant, these features do not prevent the reference from teaching, in combination with MacIntosh, applicant's invention as claimed. Furthermore, in response to applicant's argument that the references (i.e. Klapperich) fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., having one hole in each projection with the holes coaxial and the same diameter to admit a drill bit of the specified axle diameter as that for sanctioned derby races) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. With reference to claims 7-9 & 12, in response to applicant's arguments that Linblad teaches drilling holes through the flat base of jaws connected by rods; these arguments have been fully considered but they are not persuasive since the Linblad reference is only used to teach threaded rods with wingnuts and heads, said threaded rods passing through holes in said jaws parallel to the longitudinal axis of said gauge, as disclosed in paragraph 4, & while the cited prior art may have additional features not disclosed by Applicant, these features do not prevent the reference from teaching, in combination with MacIntosh, applicant's invention as claimed. Furthermore, in response to applicant's argument that the references (i.e. Linblad) fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., allowing drilling parallel with the rods and upon the face or across the grain of a board) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. With reference to claims 10, 11, & 13, in response to applicant's arguments that Klapperich teaches positioning a pin in the center of the slot for precise repetition of the spacing between holes; these arguments have been fully considered but they are not persuasive since the Klapperich reference is only used to teach grooves located upon said projections and opposite said sides of said jaw, as disclosed in paragraph 5, & while the cited prior art may have additional features not disclosed by Applicant, these features do not prevent the reference from teaching, in combination with MacIntosh, applicant's invention as claimed. Furthermore, in response to applicant's argument that the references (i.e Klapperich) fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., tracing the precise path of a drill bit, the grooves one upon each projection, precisely above the path of a drill bit, the grooves showing the path of the drill bit and allowing a person to drill through one projection, remove the drill, rotate the present invention and car body and drill through the other projection) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

10. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

11. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves

Art Unit: 2859

or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the cited art of MacIntosh provides the basic features of the invention as stated in the limitations of the claims, while the addition of features from the prior art disclosed by Prior Art, Klapperich, and Linbald improve the accuracy and accommodation of workpiece bodies as stated in paragraphs 2-5 above.

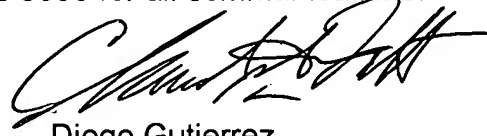
Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Inquiries concerning this, or earlier, communications from the examiner should be directed to Travis M Reis (571) 272-2249; 8--5 M--F. If unreachable, contact the examiner's supervisor, Diego Gutierrez (571) 272-2245. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

CHRISTOPHER W. FULTON
PRIMARY EXAMINER

tmr
November 22, 2004